



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

SEP 11 2009

THE ADMINISTRATOR

**MEMORANDUM**

**SUBJECT:** Development of regulations and policies

**TO:** Assistant Administrators  
Associate Administrators  
General Counsel  
Regional Administrators

Our process for the development of U.S. Environmental Protection Agency regulations and policies aims to take advantage of the best cross-agency thinking on significant decisions. As the agency's senior managers, I would like you to involve yourself early in the development of regulations and policies. Early involvement will ensure that we consider the full range of options open to us, choose a sensible and environmentally protective path forward, and develop an appropriate rulemaking record for the options we choose to pursue. Senior management involvement also ensures that significant substantive issues, and the fit between any particular regulation or policy and EPA's overall priorities, are raised and resolved early rather than late in the process. With this in mind, please focus your attention on two regulatory milestones in the life of an EPA regulation or policy:

1. **Early Guidance** – At this meeting, a cross-office workgroup should present a project plan to the decision maker that outlines the data that will be collected, the preliminary options that will be examined, how the data and options will be analyzed, and which stakeholder groups will be consulted. In addition the workgroup should receive clarification about what information the decision maker will need to be able to choose among potential options. Early guidance meetings are important because they provide an opportunity for cross-office managerial input and guide the workgroup on which options warrant further analysis.

Please note that several goals central to the environmental mission of this Administration need to be brought into the regulatory process as early as possible in order to give them the attention they are due; these are environmental justice, children's health, and climate change.

With regard to environmental justice, early consideration of the potential effect of a regulation or policy on minority and/or low-income communities is essential to gaining a full understanding of this effect during the regulatory process, determining how to address any effect that may be found, and reaching out to the affected communities in a meaningful way.

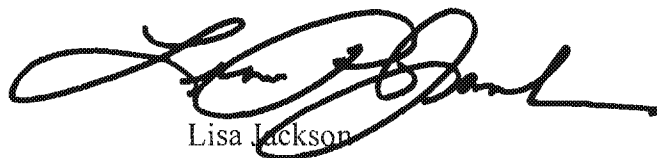
Likewise, with respect to children's health, early attention to this issue is critical to grasping the full implications of a regulatory or policy decision for children and to addressing those implications in the decision-making process.

As for climate change, regulatory and policy decisions must begin to reflect the consequences of a changing climate for EPA's core operations. Achieving EPA's core mission of protecting the health and environment of all Americans will become harder not only due to climate change per se, but also due to the effects of climate change on air quality, water quality and availability, and so on. Early attention to this issue, too, is essential if EPA's regulatory and policy decisions are to be protective and forward-looking.

2. **Options Selection** – Once options are fully analyzed, the decision maker will hold a meeting with other senior managers and the workgroup to select a course of action. Options selection meetings are important because they give management the opportunity to review the major scientific, legal, and economic analyses the workgroup has prepared and direct the workgroup as to how to complete the draft action. For these meetings to be effective, it is critical that analyses be completed and available and that the menu of final options under consideration be thoroughly vetted within the workgroup before the meeting takes place.

The identity of the "decision maker" noted above depends on the nature of the action under consideration. For Tier I actions, either the Deputy Administrator or I will chair the early guidance and options selection meetings. For Tier II actions, the Assistant Administrators will chair the meetings. These meetings – and the general process for development of regulations and policies – are described in more detail in EPA's *Action Development Process*, available at <http://intranet.epa.gov/adplibrary/>.

Thank you in advance for your commitment to a process that makes the most of the expertise and experience found throughout EPA. Investing management time early in the process helps to achieve environmentally protective and sensible outcomes, promotes internal transparency, and ensures that our decisions are based on sound assessments of the relevant evidence.



Lisa Jackson